

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

CODY LOUIS HOPKINS,)	NO. CV-10-5129-LRS
)	
Plaintiff,)	ORDER GRANTING DEFENDANTS'
)	MOTION FOR SUMMARY JUDGMENT
v.)	
)	
HENRY BRYCE and WAYNE DUBOIS,)	
)	
Defendants.)	
)	

On January 24, 2012, Defendants Henry Bryce and Wayne Dubois ("Defendants") filed a motion for summary judgment. (ECF No. 39). Plaintiff, proceeding pro se, has failed to file a response to Defendants' motion for summary judgment. Plaintiff has failed to provide a specific set of facts in opposition to Defendants' motion for summary judgment. Pursuant to Local Rule 56.1(d), the failure to file a statement of specific facts in opposition to a motion for summary judgment allows the Court to assume the facts as claimed by the moving party exist without controversy.

BACKGROUND

Plaintiff Cody Hopkins sues two Richland Police Department officers, Bryce Henry and Wayne Dubois, for alleged injuries sustained when entering a hospital on July 25, 2010. At that time, Officer Bryce Henry accompanied Hopkins, since Hopkins was under arrest. Hopkins does not identify any causes of action in his second amended complaint.

FACTS

On April 25, 2010, Benton County emergency dispatch received

1 a call about an altercation with a gun at the Motel 6, located at
2 1751 Fowler Street, Richland. Richland Police Department officers,
3 Benton County sheriff deputies, and Kennewick Police Department
4 officers responded to the call. One Richland officer responding
5 was Bryce Henry. Richland Police Department Sergeant Wayne Dubois
6 assumed control of the emergency. (Declaration of Bryce Henry;
7 Declaration of Wayne Dubois). After officers secured the area,
8 they arrested suspect Cody Hopkins. Bryce Henry transported
9 Hopkins to the Richland Police Department station, where he
10 was charged with assault and unlawful possession of a firearm. At
11 the station, Officer Henry attended to Hopkins' swollen eye
12 sustained during the melee with the other suspect, Aaron Jacobs.
13 (Declaration of Bryce Henry).

14 Officer Henry next transported Cody Hopkins to Kadlec Medical
15 Center for examination of his wounds. Upon arrival at the
16 hospital, the two walked through the automatic emergency room
17 doors as the doors began to close. Officer Henry assumed the
18 doors' detectors would immediately notice their presence and would
19 re-open. Instead the doors continued to close. Cody Hopkins banged
20 his **left** shoulder into one of the glass doors. (Declaration of
21 Bryce Henry).

22 Cody Hopkins then threw himself onto the ground and yelled
23 that he pulled his shoulder out of its socket. Bryce Henry tried
24 to assist Hopkins but Hopkins stated his **right** shoulder was
25 injured. Officer Henry did not pull Cody Hopkins' shoulder out of
26 its socket, nor did Henry intentionally cause Hopkins any injury.
27 (Declaration of Bryce Henry). Emergency room physician Dr. Maxwell
28 indicated there was no evidence of a shoulder injury to Hopkins.

1 The medical records confirm no injury. (Declaration of Bryce
2 Henry). Cody Hopkins has submitted no initial disclosures.
3 (Declaration of George Fearing).

4 **SUMMARY JUDGEMENT STANDARD**

5 Summary judgment is appropriate when it is demonstrated that
6 there exists no genuine issue as to any material fact, and that
7 the moving party is entitled to judgment as a matter of law. Fed.
8 R. Civ. P. 56(c). Under summary judgment practice, the moving
9 party

10 [A]lways bears the initial responsibility of informing the
11 district court of the basis for its motion, and identifying
12 those portions of "the pleadings, depositions, answers to
13 interrogatories, and admissions on file, together with the
14 affidavits, if any," which it believes demonstrate the
15 absence of a genuine issue of material fact.

16 *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). "[W]here the
17 nonmoving party will bear the burden of proof at trial on a
18 dispositive issue, a summary judgment motion may properly be made
19 in reliance solely on the 'pleadings, depositions, answers to
20 interrogatories, and admissions on file.'" *Id.* Indeed, summary
21 judgment should be entered, after adequate time for discovery and
22 upon motion, against a party who fails to make a showing
23 sufficient to establish the existence of an element essential to
24 that party's case, and on which that party will bear the burden of
25 proof at trial. *Celotex Corp.*, 477 U.S. at 322. "[A] complete
26 failure of proof concerning an essential element of the nonmoving
27 party's case necessarily renders all other facts immaterial." *Id.*
28 In such a circumstance, summary judgment should be granted, "so
long as whatever is before the district court demonstrates that
the standard for entry of summary judgment, as set forth in Rule
56(c), is satisfied." *Id.* at 323.

1 directed to enter judgment in favor of Defendants and against
2 plaintiff; file this Order; provide a copy to counsel for
3 Defendants and pro se plaintiff; and **CLOSE** this file.

4 DATED this 30th day of April, 2012.

5 ***s/Lonny R. Suko***

6

LONNY R. SUKO
7 UNITED STATES DISTRICT JUDGE